Supreme Court, U.S.
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No 05-900

In The
SUPREME COURT OF THE
UNITED STATES

RICHARD LEE BEAMS-- PETITIONER

vs

GALE NORTON, Secretary --RESPONDENT
of Department of Interior

ON PETITION FOR A WRIT OF CERTIORARI
TO THE UNITED STATES COURT OF APPEALS FOR
THE TENTH CIRCUIT

PETITION FOR WRIT OF CERTIORARI

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QUESTIONS PRESENTED

Will the U.S. Government honor it's trust responsibility to the Native American people?

Will the U. S. Government honor the Wheeler Howard Act also known as the Indian Reorgainzation Act in its Indian Preference regulations in employing Indian People in the Bureau of Indian Affairs?

Does the U. S. Government endorse the illegal cultivation of marijuana on Indian Trust lands on Indian Reservations?

Does the U. S. Government endorse cussing of employees by supervisors as part of official business?

JURISDICTION

For cases from **federal courts:**

The date on which the United States Court of Appeals decided my case was September 1, 2005.

No petition for rehearing was timely filed in my case.

The Jurisdiction of this Court is involked under 28 U. S. C. 1254

PARTIES TO THE PROCEEDINGS BELOW

Other employees of the Department of the Interior and legal represenatives as follows:

Linda Saunders in her individual and official capacity as former the Superintendent of the Horton Agency.

Jeannie Cooper in her individual and official capacity as an employee of the Anadarko Area Personnel Office.

Evelyn Gomez in her individual and official capacity as the BIA Anadarko Area Personnel Officer (deceased) and her successor, Jeanie Cooper.

Jackie Rapstine, in her individual and official capacity as Assistant U. S. Attorney. Kansas representing Bureau of Indian Affairs personnel in the District Court legal proceedings.

Martin Steinmetz in his individual and official capacity as Attorney for the Tulsa, Solicitors office representing the BIA in the Equal Employment Opportunity Commission legal procedings.

STATUTORY PROVISIONS INVOLVED

Cases

Morton v. Mancuri

Authorities and Statutes;

Indian Reorganization Act of 1934 aka Wheeler-Howard Act, 25 U. S. C 1461 and Indian Preference Act, 25 U.S.C. 472 et seq

Title VII Civil Rights Act of 1964

Age Discrimination in employment, Act 29 U.S.C. 621

Office of Personnel Management Suitability Investigation for the Horton Agency Soil Conservationist position.

5C.F.R. part 731,501

5C.F.R. 731.103(a)(1944)

5 C.F.R. 731.202

5 C.F.R.731.103(d)(1994)

5 C.F.R.731.501

5 C.F.R.731.508 (1992)OPM Qualification Standards X118, Federal Personnel Manual-(FPM) 338, and FPM 731-3

5 C.F.R. 731.104 (g) (2004)

5 U.S.C. 2302(b)

5 U.S.C. 731 .303(e)(1994)

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PETITION FOR A WRIT OF CERTIOTI

Petitioner Richard L. Beams respectfully petitions for a writ of certiorari to review the judgment of the United States Court of Appeals for the 10th Circuit in this case.

OPINIONS BELOW

The opinion of the United States Court of Appeals for the First Circuit (Pet. App. 1a-2a) has been filed in the United States Court of Appeals, tenth Circuit, September 1, 2005. The district court's order granting the defendant dismissal of Plaintiff's claims filed in Kansas District Court (3a-14a copy is enclosed).

Merit Systems Protection Board decision (Pet. App. 15a-26a) copy enclosed.

Office of Personnel Management Decision (Pet. App. 27a-28a) enclosed.

Chief of the Bureau of Indian Affairs Management opinion (Pet. App. 29a-30a) enclosed

The State of Kansas Department of Human resources Referee and Review Board Decision (Pet App. 31a-34a) enclosed

Jurisdiction

The judgment of the court of appeals was entered on September 1, 2005. The court has jurisdiction pursuant to 28 U.S.C. 1254.

RELEVANT CONSTITIONAL PROVISION

The Fourteenth Amendment to the Constitution provides in relevant part: "[N]or shall any State deprive any person of life, liberty, or property without due process of law"

STATEMENT OF THE CASE

This case is a consolidation of four Equal Employment Opportunity Cases Petitioner, Richard L. Beams, filed during the past 14.5 years concerning employment at the Horton Agency, Horton Kansas.

BIA-91-031--Sexual Discrimination - Soil Conservationist at Horton Agency, Horton Ks.

BIA-94-067 Reprisal Soil Conservationist Position at Horton Agency.(This case was manipulated out of the other cases by the defendant and is not included in this Petition but is referenced because the next two cases are the direct results of the discrimination of this case.

BIA-94-052--Reprisal and Age--Office of personnel Management (OPM) Investigation case.

BIA-95-027--Reprisal, Race and Age-- Soil Conservationist position at Horton Agency, Horton Kansas.

BIA-99-045--Reprisal--Superintendent Position at Horton Agency, Horton Kansas.

The first case, #**BIA-031-91** was a Sex discrimination case due to the neglect of the Trust responsibility of the Superintendent and Acting Realty Specialist in getting their work done to lease the Trust land in the Horton Agency.

This was the first EEO complaint that I filed at the request of Evelyn Gomez, Personnel Officer, at the Anadarko Area Bureau of Indian Affairs office. This request was made after I had resigned due to the sexual discrimination and harassment that I had been subjected to during the past year while working as a Soil Conservationist at the Horton Agency Bureau of Indian Affairs in Horton Kansas.

We were always working with a shortage of staff and it was necessary that all available staff in Natural Resources programs work closely together to get the basic work accomplished to keep the trust lands leased. During 1990 both the Superintendent and Realty Specialist positions were vacated and new staff was hired that was not

knowledgeable of the on going work load. They not only lacked the knowledge to supervise and operate the programs, they refused to allow the existing staff do the work needed to accomplish the required work to keep the work flowing to get the leases completed.

The most essential work that was not completed was the 90 day notice to the Indian landowners. This notice was required prior to advertisement of the lands for lease and should have been sent out one year prior to the land being advertised. The Realty personnel failed to get this notice out and therefore could not legally advertise the lands that were eligible to lease. During this time I was being accused of not getting my work done but in realty, my work depended on getting the leases advertised and a lessee identified so I could work with him as required to complete the soil conservation farm stipulations for that specific lease.

Another incident involved in the harassment was the previous month when I had reported an area on a Potawatomi Reservation allotment to the County Sheriff that had been farmed to marijuana and harvested as part of the crop that was being grown. The farmer was convicted as a drug dealer and sent to prison but the Superintendent never canceled the lease even after he was sent to prison. I was accused improper and incorrect conduct because I told the County Sheriff that the Superintendent had the authority to cancel the lease if the lessee was using the property illegally or allowing it to be used illegally. This provision is part of the federal lease issued to the farmer to farm the land. I was under verbal orders from the Superintendent to report all marijuana.

During a discussion about how to accomplish the needed work the Acting Realty Specialist, Brenda Shadwick, began cussing me and it was apparent that nothing was going to be accomplished so I politely left the room and requested a witness to the meeting prior to completing the meeting.

The Superintendent refused to allow me to have a witness and therefore I refused to return to the meeting. I was accused of being insubornate because I refused to participate in an official proceeding (sit and take a cussing without a witness).

The Superintendent, Linda Saunders, requested the Area Director to Terminate me during the next month. Due to a past work record, I was not terminated as there were no history of any kind of any past problems with my work prior to the employment of Linda Saunders as the Agency Superintendent. I had a good work history and record. After the termination effort did not work, the paper trail was started to build a case against me by terminating me for two weeks without pay. The only recourse I had was to go talk to the Area Director and essentially beg him to override the Superintendent. At that time there was discussions among some of the BIA staff that the superintendent and Area Director was having an affair and if this was true I certainly not expect any help from him. The last tim.. that there were rumors of a previous Superintendent and one of the Secretaries in the Agency, the Secretary had an illegitimate baby. I had no desire to get involved in this kind of situation so in an effort to protect my work record, I resigned due to the sexual discrimination and harassment. Brenda Shadwick, the Acting Realty specialist was not penalized for not getting the 90 day notices out so the work could be done as legally required.

I initially planned to seek employment in other agencies to complete my career as I had 24+ years of satisfactory Federal Civil Service creditable work. I had no intentions of filing an EEO complaint because I had no confidence that anything would be done from my observation of another employee's experience that used to work at the Horton Agency.When I talked to the Personnel Officer, Ms Evelyn Gomez to obtain my retirement funds so I would have a source of funds to live on while I was seeking